IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

WP(C).No. 36954 of 2004(Y)

EA.189/04 IN EP.134/2002 IN OS.1974/99 of
MUNSIFF COURT,CHENGANNUR

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PETITIONER:

LEENA, KALLAKULATHU HOUSE,
VADAKKUM BHAGOM MURI, CHIRAKKADAVU VILLAGE.

BY ADV. SRI.P.HARIDAS

RESPONDENTS:

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1. M/S.SHERYAS, LINK ROAD,
BROADWAY, ERNAKULAM, COCHIN-3, REPRESENTED BY
ITS PARTNER P.VALSARAJ.

2. P.VALSARAJ, MANAGING PARTNER,
SHREYAS, LINK ROAD, BROADWAY, ERNAKULAM, COCHIN-3.

3. USHA, M/S. SHREYAS, LINK ROAD,
BROADWAY, ERNAKULAM, COCHIN-3.

BY ADV. SRI.R.HARIKRISHNAN
SRI.SUDHEENDRAN. K.Y.
SRI.N.ASHOK KUMAR
SMT.R.REMA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.36954/04

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF CLAIM PETITION SUBMITTED BEFORE MUNSIFF'S COURT, CHENGANNUR.

EXT.P2 – TRUE COPY OF ORDER DT.18.10.04 IN EA.189/04 IN EP.134/02 IN O.S. 1974/99 OF MUNSIFF'S COURT, CHENGANNUR.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.36954 OF 2004

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DATED THIS THE 20TH JUNE, 2007

J U D G M E N T

This Writ Petition is remaining defective for non-completion of service of notice on the 3rd respondent. But I find that the 3rd respondent was sailing along with respondents 1 and 2 before the court below. Notice to the 3rd respondent is dispensed with.

2. Ext.P2 order which is under challenge in this Writ Petition is an order passed by the execution court on a claim petition under Order XXI Rule 58 C.P.C. The remedy of a Writ Petition under Article 227 challenging Ext.P2 is not available to the petitioner since orders like Ext.P2 are to be construed as decrees for the purpose of appeals. On that reason the Writ Petition will stand dismissed.

(PIUS C.KURIAKOSE, JUDGE)

tgl